

**Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554**

In the Matter of

Developing a Unified Intercarrier  
Compensation Regime

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CC Docket No. 01-92

**REPLY COMMENTS OF  
SOUTHERNLINC WIRELESS**

Southern Communications Services, Inc. d/b/a SouthernLINC Wireless, by its attorneys, hereby replies to comments submitted in response to the further notice of proposed rulemaking released on February 10, 2005 regarding a unified intercarrier compensation regime.<sup>1</sup> As an independent wireless carrier, SouthernLINC Wireless must pay significant fees to the same incumbent local exchange carriers (“ILECs”) with which it increasingly competes for subscribers in order to terminate traffic to, and accept traffic from, end users of those ILECs and any other service provider that relies upon those ILECs for indirect interconnection. SouthernLINC Wireless agrees with the majority of parties participating in this proceeding that the intercarrier compensation system must be reformed, and urges the Commission to do so quickly in accordance with the recommendations set forth below.

**I. THE FCC SHOULD ADOPT DEFAULT INTERCONNECTION RULES THAT APPLY ONLY IN THE ABSENCE OF VOLUNTARILY NEGOTIATED INTERCONNECTION AGREEMENTS**

In the absence of an interconnection agreement establishing a voluntary agreement between two service providers, a neutral set of default interconnection rules would ensure that no service provider could subvert the goals of the Communications Act of 1934, as amended, (the

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<sup>1</sup> *Developing a Unified Intercarrier Compensation Regime*, Further Notice of Proposed Rulemaking, CC Docket No. 01-92, FCC 05-33, at ¶ 4 (Feb. 10, 2005) (“*FNPRM*”). (“Further Notice of Proposed Rulemaking” or “*FNPRM*”)

“Act”).<sup>2</sup> A service provider could undermine the Act’s preference for voluntarily negotiated market-based arrangements by imposing onerous, discriminatory, or inefficient interconnection requirements on their competitors.<sup>3</sup> SouthernLINC Wireless agrees with CTIA that default interconnection rules are not an end in themselves, but rather should be structured to maximize carrier’s incentives to negotiate voluntary interconnection and compensation arrangements.<sup>4</sup>

SouthernLINC Wireless agrees with CTIA and T-Mobile that without effective default interconnection rules, carriers with greater bargaining leverage like ILECs will be able to impose their costs on their competitors by requiring them to exchange traffic in a manner that exploits that leverage.<sup>5</sup> Currently, the ILECs hold a commanding presence in mass market telecommunications services.<sup>6</sup> ILECs serve over 90% of residential subscribers in virtually every market.<sup>7</sup> Although the ILECs often point to the potential threat that CMRS and VOIP present to their businesses, each of these alternatives account for an extremely small percentage of lost access lines served by the ILECs.<sup>8</sup> The default rules should recognize this advantage and be structured to maximize carriers’ incentives voluntarily to negotiate mutually satisfactory interconnection agreements without resort to arbitration or application of default rules.

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<sup>2</sup> See, e.g., CTIA Comments at 6 (supporting default rules)

<sup>3</sup> See *id.*

<sup>4</sup> CTIA Comments at 21.

<sup>5</sup> CTIA Comments at 21; T-Mobile Comments at 18.

<sup>6</sup> See, e.g., XO Comments at 18 (describing the market power of the ILECs).

<sup>7</sup> *Id.*

<sup>8</sup> See, e.g., *id.* (noting that ILECs have lost few access lines to CMRS and VoIP providers).

## **II. DEFAULT INTERCONNECTION RULES MUST BE COMPETITIVELY AND TECHNOLOGICALLY NEUTRAL**

As XO observed in its comments, many of the intercarrier compensation plans propose or assume interconnection architectures that differ from those permitted under law today.<sup>9</sup> SouthernLINC Wireless agrees with XO that the Commission should be skeptical of making “back door” changes to the interconnection rules it established under Section 251 of the Act in an effort to facilitate competition.<sup>10</sup> The Commission should not force competitors, including wireless carriers, to unnecessarily replicate the legacy networks of the ILECs.<sup>11</sup> In particular, the Commission should reaffirm its commitment to establishing intercarrier compensation mechanisms that are consistent with the use of a single point of interconnection in a LATA and with an ILEC’s obligation to provide transiting service at TELRIC rates, as described below.

### **A. The Default Rules Should Eliminate Arbitrary Distinctions In Termination Rates.**

SouthernLINC Wireless agrees with numerous parties that the most critical element in reforming intercarrier compensation is the elimination of arbitrary distinctions among types of traffic exchange.<sup>12</sup> SouthernLINC Wireless also agrees with the Commission and plan proponents that a new approach to intercarrier compensation should provide uniform cost recovery mechanisms for all traffic within the Commission’s jurisdiction, should be competitively and technologically neutral, should not threaten the objectives of universal service, and, most importantly, should promote competition among multiple providers of telecommunications services. As T-Mobile correctly observed, arbitrary distinctions create

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<sup>9</sup> See XO Comments at 20.

<sup>10</sup> See *id.*

<sup>11</sup> See, e.g., CTIA Comments at 31 (opposing rules that require competitors to replicate ILEC networks); XO Comments at 23 (same).

<sup>12</sup> See, e.g., CTIA Comments at ii (urging FCC to eliminate arbitrary distinctions); T-Mobile Comments at 4 (same).

incentives for arbitrage by entities taking advantage of non-cost based rate differences.<sup>13</sup> Moreover, default interconnection rules that impose greater costs or burdens on one type of service provider than another (*e.g.*, rules that treat wireless carriers less favorably than rural wireline carriers) will undermine any reform that the Commission seeks to implement and would be fundamentally inconsistent with the Act.<sup>14</sup>

In order to create the type of regulatory environment in which all types of innovative services can flourish, the Commission should establish an intercarrier compensation regime that is geographically, technologically, and competitively neutral. SouthernLINC Wireless, like numerous other parties, agrees with the basic guiding principles that NARUC articulated and recognizes that reforms ultimately must be economically sound.<sup>15</sup> SouthernLINC Wireless further agrees that economically sound default rules must: (i) be competitively, technologically, and geographically neutral; (ii) establish rates that are uniform and cost-based; (iii) eliminate arbitrage opportunities that arise from arbitrary distinctions;<sup>16</sup> and (iv) encourage voluntary interconnection between service providers. No carrier should be permitted to discriminate on the basis of: (i) the classification of the requesting carrier;<sup>17</sup> (ii) the classification of the requesting carrier's customers; (iii) the location of the requesting carrier's customer; (iv) the geographic

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<sup>13</sup> See, *e.g.*, T-Mobile at 4.

<sup>14</sup> See, *e.g.*, *id.* at 6. SouthernLINC Wireless agrees with CTIA that, if the FCC does not eliminate the distinction between reciprocal compensation and access charges, the Commission must rule that CMRS carriers can recover access charges and that rural LECs ("RLECs") must recognize Major Trading Area ("MTA") boundaries with regard to their treatment of calls between RLEC and CMRS customers. CTIA Comments at 18-19.

<sup>15</sup> See *The National Association of Regulatory Utility Commissioners Study Committee on Intercarrier Compensation – Goals for a New Intercarrier Compensation System* (May 5, 2004).

<sup>16</sup> See, *e.g.*, T-Mobile Comments at 5 (noting that the current system encourages LECs to route CMRS-bound calls originating within the same MTA through interexchange carriers ("IXCs") to collect originating access rather than to pay reciprocal compensation).

<sup>17</sup> The ICF Plan discriminates among types of service providers during the planned transition period. For example, the ICF Plan fails to address termination rates for VoIP traffic during the transition period.

location of any of the end-users who are parties to the communication;<sup>18</sup> or (v) the architecture or protocols of the requested carrier's network or equipment.

The default intercarrier compensation rates should be designed to compensate requested carriers for their *actual* interconnection costs. Specifically, default intercarrier compensation rates in no event should exceed the terminating carrier's incremental cost of termination.<sup>19</sup> SouthernLINC Wireless agrees with CTIA that intercarrier compensation should never be based upon embedded costs as recommended in the EPG Plan and the ARIC FACTS Solution because they would maintain all of the implicit subsidies and inefficiencies of the current system.<sup>20</sup>

**B. The Default Rules Should Not Depart Undermine The ILECs' Obligations Under the Act**

The Commission should neither enact “back door” revisions to its interconnection architecture rules under the guise of setting intercarrier compensation rates, nor should it relieve ILECs of the obligation to provide transit service at cost-based rates. Section 251(c)(2) of the Act requires ILECs to permit any requesting telecommunications carrier, including a wireless carrier, to establish a point of interconnection for the exchange of all traffic including interexchange traffic. As XO explained, this obligation has been confirmed numerous times by this Commission, which has further clarified that the obligation of each carrier to bear its own cost of delivering originating traffic to the POI designated by the requesting telecommunications carrier flows directly from the Telecommunications Act.<sup>21</sup>

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<sup>18</sup> The CBICC, ARIC, and Rural Alliance proposals all allow carriers to impose different origination charges for local and toll traffic.

<sup>19</sup> The ARIC, Rural Alliance, and NARUC proposals all allow carriers to impose non-cost based origination and termination access rates.

<sup>20</sup> CTIA Comments at 47.

<sup>21</sup> See, e.g., XO Comments at 22 (explaining the current interconnection rules).

Several of the intercarrier compensation reform proposals would impermissibly alter the cost allocation rules the Commission adopted when implementing the requirements of the Act.<sup>22</sup> For example, the ICF Plan would require carriers to bear the cost of transporting traffic to the “edge” of an ILEC’s network, which would require, at least from a financial perspective, requesting telecommunications carriers to interconnect with the ILEC at multiple POIs in a LATA.<sup>23</sup> Each point would be dictated by the ILEC’s network preferences rather than technical feasibility.<sup>24</sup> The ICF Plan also discriminates between various classes of carriers by imposing responsibility for ILEC/CMRS internetwork transport in both directions on the CMRS carrier.<sup>25</sup> The ICF Plan also grants RLECs an exclusive right to impose a terminating transport charge on non-RLECs, which is fundamentally inconsistent with the requirements of the Act.<sup>26</sup> SouthernLINC Wireless agrees with CTIA and T-Mobile that the blatantly discriminatory and monopoly-reinforcing interconnection rules in the ICF Plan unnecessarily add cost by forcing wireless and wireline competitive carriers, as well as VoIP service providers, with more efficient technologies to replicate ILECs’ legacy network.<sup>27</sup>

Similarly, SouthernLINC Wireless agrees with CTIA and T-Mobile that the Commission should reaffirm, by granting Sprint’s routing and rating petition,<sup>28</sup> that: (1) wireless carriers can serve telephone numbers with different routing and rating points; (2) ILECs must route calls to those telephone numbers; and (3) ILECs must rate calls to those telephone numbers in the same

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<sup>22</sup> See, e.g., *id.* at 23 (explaining the flaws in several of the reform proposals).

<sup>23</sup> See, e.g., *id.* at 22 (explaining the flaws in the ICF Plan).

<sup>24</sup> See *id.*

<sup>25</sup> See CTIA Comments at 52 (explaining flaws in the ICF Plan).

<sup>26</sup> See, e.g., T-Mobile at 23 (explaining flaws in the ICF Plan).

<sup>27</sup> See, e.g., T-Mobile at 23; CTIA at 52.

<sup>28</sup> Sprint Petition for Declaratory Ruling, Obligation of Incumbent LECs to Load Numbering Resources Lawfully Acquired and to Honor Routing and Rating Points Designated by Interconnecting Carriers, CC Docket No. 01-92 (May 9, 2002) (“Sprint Petition”).

way they rate calls to their own telephone numbers that are associated with the same rate center.<sup>29</sup> Otherwise, wireless and other competitive service providers will be forced unnecessarily to replicate the ILECs' legacy network at enormous expense in order to interconnect directly with the ILECs throughout their service area.<sup>30</sup>

In short, the Commission should not depart from the existing interconnection rules in this proceeding. Rather, the Commission should ensure that the uniform default rules developed here are consistent with the interconnection obligations that exist today. Specifically, ILECs should be required to exchange traffic, using the uniform rate, at a single point of interconnection within a LATA selected by the requesting telecommunications carrier. Each party should be required to bear the cost of establishing the single POI and of transporting traffic to that POI. Moreover, if two-way facilities are deployed for the exchange of traffic, the parties should share the cost of those facilities equally, whether the facilities are provided by the ILEC or by the requesting telecommunications carrier.

**C. The FCC Should Reaffirm the Statutory Duty of ILECs to Provide Transit at TELRIC Rates.**

ILECs have an obligation under Section 251(a) and 251(c)(2) to provide transiting service to requesting carriers that seek to exercise their statutory rights to interconnect indirectly with other carriers.<sup>31</sup> As XO explained, transit traffic is a fundamental part of an ILEC's interconnection obligation and should be exchanged between carriers under a unified intercarrier

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<sup>29</sup> See, e.g., CTIA Comments at 29-31 (supporting Sprint Petition); T-Mobile Comments at iii, 7 (same).

<sup>30</sup> See, e.g., CTIA Comments at 31 (explaining importance of the Sprint Petition); T-Mobile Comments at iii, 7 (same).

<sup>31</sup> See, e.g., CTIA Comments at iii, 24 (noting that service providers have a statutory right to interconnect directly or indirectly with carrier networks and that LECs have a statutory duty to provide transit service at TELRIC rates); XO Comments at 25 (same).

compensation scheme.<sup>32</sup> For the foreseeable future, the ILEC's dominant position in the local exchange market means that it will be the only carrier with interconnection to virtually every other local exchange provider in the region. As such, it is crucial that the default rules do not in any way undermine the statutory duty of the ILECs to provide transit service to requesting telecommunications carriers, including wireless carriers. Under the Act, telecommunications carriers have the right to interconnect indirectly through the carrier or carriers of their choice. Accordingly, SouthernLINC Wireless agrees with T-Mobile that no carrier has the right to block traffic of another service provider, regardless of how the carriers are interconnected.<sup>33</sup> SouthernLINC Wireless also agrees with T-Mobile and XO that transit should be provided at TELRIC rates.<sup>34</sup>

### **III. THE FCC MUST REFORM UNIVERSAL SERVICE IN ORDER TO ACHIEVE THE GOALS OF THE ACT**

SouthernLINC Wireless agrees with CTIA and T-Mobile that the various intercarrier compensation proposals in this proceeding that rely on additional universal service support or a comparable funding mechanism to replace lost intercarrier compensation – such as the ICF Plan, the NARUC Proposal, the NASUCA Principles, the EPG Plan, the ARIC FACTS Solution, the CBICC Proposal, the Home/PBT Plan and the Frontier UTF Plan – would threaten the viability of the entire universal service system.<sup>35</sup> As several parties observed, revenue neutrality actually freezes current operational inefficiencies in perpetuity,<sup>36</sup> and thus it is critical that new universal service support amounts are carrier neutral and technology neutral. SouthernLINC Wireless

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<sup>32</sup> XO Comments at 25.

<sup>33</sup> See T-Mobile Comments at 21, citing 47 U.S.C. §251(a)(1).

<sup>34</sup> See, e.g., T-Mobile Comments at 21 (supporting TELRIC rates for transit traffic); XO Comments at 26 (same).

<sup>35</sup> See, CTIA Comments at 48, 54; T-Mobile Comments at 24.

<sup>36</sup> See, e.g., T-Mobile Comments at 25 (discussing flaws of revenue neutrality).



agrees with XO that, before the Commission considers establishing new “universal service” mechanisms (or increasing support provided under the current universal service funds), the Commission should fully explore direct recovery of increased costs from end users of the services.<sup>37</sup>

SouthernLINC Wireless agrees with CTIA and XO that the current interstate revenue-based universal service contribution methodology has been endorsed by the courts and should continue to provide a stable, reliable source of support if contributions are assessed from as wide a base as possible.<sup>38</sup> Further, a revenue-based system that assesses contributions from as wide a revenue base as possible most closely satisfies universal service contribution goals and avoids serious questions regarding the legality of a connection or numbers-based contribution system, as well as the administrative obstacles associated with each of those options.<sup>39</sup> SouthernLINC Wireless agrees with CTIA, T-Mobile and XO that the FCC should avoid the pitfalls associated with number-based contribution methods.<sup>40</sup> The Commission should modify its revenues-based assessment system rather than replacing it with connections-based alternatives.<sup>41</sup>

SouthernLINC Wireless agrees with CTIA and T-Mobile that the FCC should also reject all plans that recommend limiting universal service support to wireline carriers, which would not be competitively or technologically neutral.<sup>42</sup> The wireless industry already bears the brunt of the disproportionate competitive burden caused by unsustainable increases in mandatory

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<sup>37</sup> XO Comments at 17.

<sup>38</sup> CTIA Comments at 41; Reply Comments of XO Communications, Inc., CC Docket 96-45, filed April 18, 2003 at 5.

<sup>39</sup> CTIA Comments at 41; Reply Comments of XO Communications, Inc., CC Docket 96-45, filed April 18, 2003 at 6.

<sup>40</sup> CTIA at 41; T-Mobile at 36; Reply Comments of XO Communications, Inc., CC Docket 96-45, filed April 18, 2003 at 11.

<sup>41</sup> See Reply Comments of XO Communications, Inc., CC Docket 96-45, filed April 18, 2003 at 5.

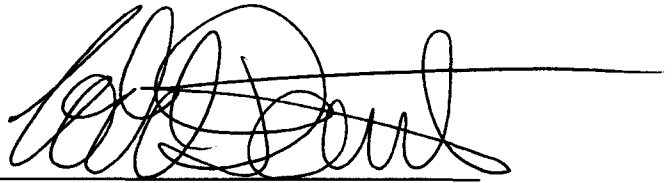
<sup>42</sup> T-Mobile at 25; CTIA at 4.

universal service fund contributions.<sup>43</sup> The Act requires that the Commission reform universal service such that the benefits and the burdens of universal service are spread in a non-discriminatory manner across all types of service providers and services, including wireless.

#### IV. CONCLUSION

For the foregoing reasons, SouthernLINC Wireless respectfully requests the Commission to implement a unified intercarrier compensation mechanism consistent with the principles described above.

Respectfully submitted,

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<sup>43</sup> CTIA Comments at 3.